

#132-16 (OAL Decision: Not yet available online)

M.M., on behalf of minor child, V.H.A, :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
TOWNSHIP OF WEST ORANGE,
ESSEX COUNTY, :
RESPONDENT. :

SYNOPSIS

Petitioner filed a *pro se* residency appeal on behalf of her son in November 2015, seeking a determination that V.H.A. was entitled to a free public education in West Orange Schools for the period between June 1, 2015 and November 30, 2015. The Board contended that – based on the results of a residency investigation – petitioner had been domiciled in East Orange during the period in question. Subsequent to the Board’s determination of non-residency, however, petitioner moved back into the West Orange school district on November 30, 2015. Accordingly, the Board counterclaimed for tuition for the period from June 1, 2015 to November 30, 2015. The matter was transmitted to the Office of Administrative Law (OAL). Two pre-hearing telephone conferences were scheduled in February 2016, but petitioner failed to answer despite having received proper notice. Subsequently, counsel for the Board appeared at the scheduled hearing on February 29, 2016, but petitioner failed to appear and offered no explanation for her non-appearance.

The ALJ found, *inter alia*, that: pursuant to *N.J.S.A. 18A:38-1*, petitioner has the burden of proof in a determination of residency ineligibility; petitioner failed to participate in scheduled proceedings and provided no excuse for her failure to appear; petitioner did not file an answer to the Board’s counterclaim for tuition. The ALJ concluded that the determination of the Board that V.H.A. was not domiciled in West Orange during the period in question should be upheld, and the petition of appeal dismissed pursuant to *N.J.A.C. 1:1-14.4*. The ALJ further concluded that the Board has demonstrated entitlement to tuition reimbursement in the amount of \$5,309.44 for the period of ineligible attendance. Accordingly, the ALJ dismissed the petition with prejudice and granted the Board’s request for tuition reimbursal.

Upon review, the Commissioner concurred with the ALJ findings and conclusions, and adopted the Initial Decision as the final decision in this matter. Accordingly, the Commissioner ordered that petitioner shall reimburse the Board in the amount of \$5,309.44 in tuition costs for the period of V.H.A.’s ineligible attendance in West Orange schools.

This synopsis is not part of the Commissioner’s decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commissioner.

April 7, 2016

